

Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of Winneconne as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Construction and Penalties [Adopted 10-20-1994 as §§ 25.01, 25.02(1), 25.03, 25.04 and 25.05 of the 1994 Code]

§ 1-1. Rules of construction.

In the construction of this Code, the following rules shall be observed unless such construction would be inconsistent with the manifest intent of the ordinance:

- A. Wisconsin Statutes. All references to "Wisconsin Statutes" or "Wis. Stats." shall mean the Wisconsin Statutes as of the adoption of this Code and as they may be amended. [Amended 4-21-2005]
- B. Gender; singular and plural. Every word in this Code and in any ordinance imparting the masculine gender may extend and be applied to females as well as males, and every word imparting the singular number only may extend and be applied to several persons or things as well as to one person or thing, provided that these rules of construction shall not be applied to any provision which contains any express language excluding such construction or when the subject matter or context of such provision may be repugnant thereto.
- C. Person. The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and to all entities capable of being sued, unless plainly inapplicable.
- D. Acts of agents. When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

§ 1-2. Conflicts between chapters.

If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

§ 1-3. Clerk to file documents incorporated by reference.

Whenever in this Code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this Code as if fully set forth herein, and the Clerk shall file, deposit and keep in his office a copy of the Code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Clerk's office hours, subject to such orders or regulations which the

Clerk may prescribe for their preservation.

§ 1-4. General penalty.

- A. Except as otherwise provided, any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a penalty which shall be as follows: [Amended 4-21-2005]
 - (1) First offense. Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.
 - (2) Second offense. Any person found guilty of violating any ordinance or part of an ordinance of this Code who has previously been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than \$25 nor more than \$500 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding six months.
- B. Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- C. Execution against defendant's property. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Town, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

§ 1-5. Citations.

- A. Statutory authorization. Pursuant to § 66.0113, Wis. Stats., the Town elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.
- B. Contents of citation. The citation shall contain the following:
 - (1) Name and address of the alleged violator.
 - (2) Factual allegations describing the alleged violation.
 - (3) Time and place of the offense.
 - (4) Number and section of the ordinance violated.
 - (5) A designation of the offense in such a manner as can readily be understood by a person making a reasonable effort to do so.
 - (6) Time and date in which the violator may appear in court.
 - (7) A statement which informs the violator that:
 - (a) A cash deposit based on the established schedule^{EN} may be delivered or mailed to the Clerk of Circuit Court, or Clerk of Municipal Court depending on the type of citation, prior to the time of the scheduled court appearance.

[Amended 4-21-2005]

- (b) If a deposit is made no appearance in court is necessary unless he is subsequently summoned.
 - (c) If a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
 - (d) If no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
 - (e) If the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under § 800.093, Wis. Stats. [Added 4-21-2005]
- C. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the required statement has been read. Such statement shall be sent or brought with the cash deposit.
- D. Deposits shall be made in cash, money order or certified check to the Clerk of Circuit Court, or Clerk of Municipal Court depending on the type of citation, who shall provide a receipt therefor. [Amended 4-21-2005]
- E. Issuance of citations. Any Town law enforcement officer and the Town Fire Chief and Building Inspector/Zoning Administrator are authorized to issue citations for violations of those ordinances they are empowered to enforce. [Amended 4-21-2005]
- F. Procedure. Section 66.0113(3), Wis. Stats., relating to a violator's options and procedures on default, is hereby adopted and incorporated by reference.
- G. Nonexclusivity.
- (1) Other ordinance. Adoption of this section does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.
 - (2) Other remedies. The issuance of a citation hereunder shall not preclude the Town Board or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

ARTICLE II, Adoption of Code [Adopted 4-21-2005]

§ 1-6. Adoption of Code.

Pursuant to § 66.0103, Wis. Stats., the ordinances of the Town of Winneconne of a general and permanent nature adopted by the Town Board of the Town of Winneconne, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp., and consisting of Chapters 1 through 310, are hereby approved,

adopted, ordained and enacted as the "Code of the Town of Winneconne," hereinafter referred to as the "Code."

§ 1-7. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-8. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

§ 1-9. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk and shall remain there for use and examination by the public for at least two weeks, in accordance with § 66.0103, Wis. Stats., and until final action is taken on this ordinance, and, if this ordinance shall be adopted, such copy shall be certified to by the Town Clerk, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the Town Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Town of Winneconne" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

§ 1-11. Publication; filing.

The Clerk of the Town of Winneconne, pursuant to law, shall cause to be published, in the manner required by law, a copy of this Adoption Ordinance. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-12. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-13. Sale of Code book.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-14. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Winneconne to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine of not more than \$500, in the discretion of the Judge imposing the same.

§ 1-15. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-16. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-17. Repealer.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this Adoption Ordinance, except as hereinafter provided.

§ 1-18. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-17 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to June 17, 2004.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the town's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinance adopting or amending a cash deposit schedule for use with municipal citations.

§ 1-19. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the Town of Winneconne, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsections B and C hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The following changes are made throughout the Code:
 - (1) References to specific chapters and sections of the Wisconsin Statutes are revised to reflect the numbering of the statutes as of the publication of this Code.

- (2) References to the "Department of Health and Social Services" are amended to read "Department of Health and Family Services."
 - (3) References to the "Department of Industry, Labor and Human Relations" (ILHR) are amended to read "Department of Commerce" (COMM).
 - (4) Specific fee amounts are removed and replaced with the following wording: "as set by the Town Board," except in § 165-4, False alarms, and Chapter 178, Impact Fees.
 - (5) References to the "Superintendent of Highways," "Highway Commissioner" and "Road Supervisor" are amended to read "Highway Superintendent."
 - (6) References to the "Planning Commission" and "Planning Committee" are amended to read "Plan Commission."
- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)ⁱⁱEN

§ 1-20. When effective.

This ordinance shall take effect upon passage and publication as required by law.

ⁱ Editor's Note: The current cash deposit schedule is on file at the Town Clerk's office.

ⁱⁱ Editor's Note: In accordance with §1-19C, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article II. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: " Amended (added, deleted) 4-21-2005." Schedule A, which contains a complete description of all changes, is on file in the Town offices.